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OFFICE OF PETITIONS

In re Application of	:	
Heim et al.	:	DECISION ON APPLICATION
Application No. 10/090,231	:	FOR
Filed: February 28, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
SRI1P031/US-4149-5	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed August 6, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seventeen (17) days to one hundred seventeen (117) days. This paper was recently forwarded to the undersigned for consideration.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is two hundred seven **(207)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 20, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 17 days. On August 6, 2004, applicant timely submitted the instant application for patent term adjustment¹. Applicants dispute the reduction of 100 days associated with the filing of a response to restriction requirement on April 16, 2004. Applicants point out that their response was received on

¹ PALM records indicate that the Issue Payment was also filed on August 6, 2004.

October 20, 2003. Thus, applicants argue no reduction is warranted.

The record supports a conclusion that the patent issuing from this application is not subject to a terminal disclaimer.

A review of the record confirms that the response received April 16, 2004 included a copy of a date-stamped and itemized postcard establishing that the response was originally received on October 20, 2003. As this was within three months of the mailing of the restriction requirement on October 7, 2003, there was no applicant delay within the meaning of \$1.704(b). Removal of the period of reduction of 100 days is warranted.

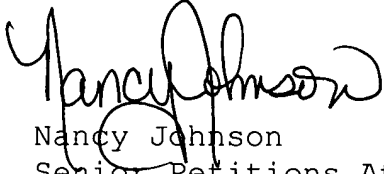
Furthermore, given that the response was received on October 20, 2003 and the Office did not take action until the mailing of a Notice of Allowance on May 20, 2004, entry of an additional period of adjustment pursuant to \$1.702(a)(2) and \$1.703(a)(2) is warranted. A period of adjustment of 90 days is being entered for Office delay for the period beginning on February 21, 2004, the day after the date that is four months after the date a reply was filed, and ending on May 20, 2004, the date of mailing of a notice of allowance.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 207 days (252 days of Office delay reduced by 45 days of applicant delay).

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The Office of Patent Publication has been advised of this decision. The application is, thereby, being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with the first name "Nancy" written in a larger, more prominent script than the last name "Johnson".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Wednesday

Date: 12/20/2006

Time: 09:32:41

PALM INTRANET

PTA Calculations for Application: 10/090231

Application Filing Date:	02/28/2002	PTO Delay (PTO):	162
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	145
Post-Issue Petitions:	0	Total PTA (days):	207
PTO Delay Adjustment:	190		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
45	12/20/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	90		
44	12/20/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	100		
22	05/20/2004	MAIL NOTICE OF ALLOWANCE			
21	05/17/2004	ISSUE REVISION COMPLETED			
20	05/17/2004	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
19	05/17/2004	CASE DOCKETED TO EXAMINER IN GAU			
18	05/17/2004	NOTICE OF ALLOWABILITY			
17	04/26/2004	DATE FORWARDED TO EXAMINER			
16	04/16/2004	RESPONSE TO ELECTION / RESTRICTION FILED		100	15
15	10/07/2003	MAIL RESTRICTION REQUIREMENT	162		-1
14	10/01/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
13	08/06/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	01/09/2003	RECORD PETITION DECISION OF GRANTED RELATED TO ATTORNEY			
11	11/05/2002	PETITION ENTERED			
10	09/16/2002	CASE DOCKETED TO EXAMINER IN GAU			
9	04/26/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	08/19/2002	APPLICATION DISPATCHED FROM OIPE			
7	08/16/2002	APPLICATION IS NOW COMPLETE		45	3
5	07/31/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
4	07/31/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

3	04/02/2002	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
2	03/19/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/28/2002	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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